



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

September 6, 1995

Mr. James R. Lindley
General Counsel
Central Texas College
P.O. Box 1800
Killeen, Texas 76540-9990

OR95-921

Dear Mr. Lindley:

You ask whether certain information held by Central Texas College (the "college") is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 34890.

You sought an open records decision from this office pursuant to section 552.305 of the Government Code. Consequently, this office notified representatives of the five book companies whose records were requested that we received your request for an open records decision regarding those companies proposals. In our letter to the representatives of those companies, this office requested an explanation as to why portions of their respective proposals were excepted from public disclosure, with the caveat that their failure to provide such an explanation within a reasonable time would result in this office instructing you to disclose the information.


More than a month has elapsed since this office issued the notice, but only one of the book companies provided this office with any explanation as to why the requested documents should not be released. However, that company, while referencing the tests that establish whether information constitutes a trade secret, *see* RESTATEMENT OF TORTS § 757 cmt. b (1939), provided this office with only conclusory arguments as to how those tests apply to their records and thus has failed make a *prima facie* case that the requested information is excepted from required public disclosure under section 552.110 of the Government Code.¹ *See* Open Records Decision No. 552 (1990). In addition,

¹This company also contends that section 552.104 of the Government Code protects portions of its proposal from public disclosure. The purpose of section 552.104 is to protect the *government's* interests when it is involved in commercial transactions, *see, e.g.*, Open Records Decision Nos. 593 (1991),

neither you nor the company that responded to our notice have cited any statute or judicial decision that makes the requested information confidential. Because none of the book companies we contacted have established a *prima facie* case as to why their respective proposals are excepted from public disclosure, we have no basis for applying any exceptions to the requested information. The college therefore must release the requested information in its entirety. If you have any questions regarding this letter, please contact our office.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and may not be relied upon as a previous determination under section 552.301 regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Ruth H. Soucy
Assistant Attorney General
Open Records Division

RHS/RWP/rho

Ref.: ID# 34890

Enclosures: Submitted documents

cc: Barnes and Noble Bookstores, Inc.
Attn: Mr. Stan Frank
105 Fifth Avenue
New York, New York 10003
(w/o enclosures)

Direct Sales
Attn: Mr. John A. Ankeney
2711 West Ash
Columbia, Missouri 65203
(w/o enclosures)

(Footnote continued)

463 (1987), and not to protect the interests of business entities that compete in the private sector. Moreover, under section 552.305 of the Government Code, private entities may assert only their own interests in the non-disclosure of information. Consequently, Texas Book Company lacks standing to assert the protection of section 552.104 on behalf of the college. See Open Records Decision No. 541 (1990) at 5.

Wallace's Bookstores, Inc.
Attn: Mr. Steve Ledford
10226 Eastwood
Dallas, Texas 75228
(w/o enclosures)

Texas Book Company
Attn: Ms. Pamela W. Keeling
P.O. Box 212
Greenville, Texas 75403
(w/o enclosures)

Follett College Stores
Attn: Mr. Dennis Saner
P.O. Box 427
Mooresville, Indiana 46158-0427
(w/o enclosures)

Specialty Books
Attn: Mr. Mark Bass
P.O. Box 781
Athens, Ohio 45701
(w/o enclosures)